



THE CITY OF NEW YORK
LAW DEPARTMENT

100 CHURCH STREET
NEW YORK, NY 10007

HON. SYLVIA O. HINDS-RADIX
Corporation Counsel

EVAN J. GOTTSSTEIN
Assistant Corporation Counsel
phone: (212) 356-2262
fax: (212) 356-1148
egottste@law.nyc.gov

February 10, 2023

BY ECF

Honorable Jesse M. Furman
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Application GRANTED. The Court will **not** grant any further extensions of Defendants' summary judgment deadline. The Clerk of Court is directed to terminate ECF No. 121 and to mail this endorsed letter to Plaintiff.

SO ORDERED.

Re: Ronald Colson v. Warden Mingo, et al.
18 Civ. 2765 (JMF)

Your Honor:

February 10, 2023

I am an Assistant Corporation Counsel in the Office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney assigned to represent defendants in the above-referenced matter. Defendants write to respectfully request a 39-day extension of time to file their motion for summary judgment, from February 13, 2023, until March 24, 2023.¹ This is defendants' first request for an extension of this deadline after the Court had adjourned the briefing schedule *sine die*.

The Court previously granted the parties' joint request for an extension of this deadline (ECF No. 113) due to two remaining depositions that had not yet been completed, and a request from defendants (ECF No. 115) because the parties still had not received transcripts of those depositions. On August 24, 2022, plaintiff's counsel at the time requested a stay of this action while he sent copies of the transcripts to defendants and to allow time to mail plaintiff the case file and for plaintiff to apply for and obtain new *pro bono* counsel. ECF No. 116. On August 25, 2022, Magistrate Judge Valerie Figueredo adjourned the briefing schedule *sine die* and set a deadline for plaintiff to move for new *pro bono* counsel or state that he intended to proceed with summary judgment *pro se*. ECF No. 117. Plaintiff filed a motion seeking new *pro bono* counsel on September 27, 2022. ECF No. 118. On January 31, 2023, the Court ordered defendants to file their motion for summary judgment by Monday, February 13, 2023.

¹ Due to plaintiff's incarceration and *pro se* status, defendants could not expeditiously obtain his position on consent to this application. Defendants submit that plaintiff would not be prejudiced by the instant request.

Although defendants currently have a working draft of their motion papers, defendants require more time to finalize the motion papers and specifically the supporting exhibits, which will include affidavits from certain defendants and/or non-parties who were not deposed.² Defendants have been unable to finalize the motion papers in the last two weeks due to counsel's commitments in other matters, which have included a time-sensitive discovery dispute, a summary judgment motion that was served earlier this week, as well as a full-day deposition and an ESI inspection, both of which also occurred earlier this week. In addition, defendants' counsel is currently preparing for trial in another matter pending in this District – *Perez v. Edwards, et al.*, Civil Docket No. 20-CV-1359 (LJL) – which is scheduled to begin on February 27, 2023, and in which motions *in limine* and other pretrial submissions are due this Monday, February 13, 2023. Once the *Perez* trial concludes, defendants' counsel also has discovery deadlines in two other matters during the week of March 6-9, 2023, a settlement conference on March 6, a pre-motion Rule 56.1 statement and supporting exhibits due by March 10, and a summary judgment reply due by March 15, 2023.

In light of counsel's schedule for February and early March, defendants respectfully request an extension of their deadline to finalize their motion for summary judgment, which will likely include the preparation of supporting documents such as affidavits, from February 13, 2023, until March 24, 2023.

Defendants thank the Court for its time and consideration of this application.

Respectfully submitted,

Evan J. Gottstein /s/
Evan J. Gottstein
Assistant Corporation Counsel
Special Federal Litigation Division

cc: Ronald Colson (By Mail)
Plaintiff Pro Se
DIN 13-A-4431
Green Haven Correctional Facility
P.O. Box 4000
Stormville, New York 12582-4000

² Of the 14 individual defendants in this action, many of whom were not personally involved in the incidents giving rise to plaintiff's claims, 5 defendants and 2 non-party DOC employees were deposed.